

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

ARLO TOWNSEND,

Plaintiff,

v.

CORRECTIONAL OFFICER JOEY

FISHBACK, et al.,

Defendants.

Case No. 4:14-cv-01879-KOB-SGC

MEMORANDUM OPINION AND ORDER

The magistrate judge entered a report on February 13, 2017, recommending the defendants' special reports be treated as motions for summary judgment and further recommending the motions be (1) granted in part as to all claims against Fishback, Burke, McQueen, Hamilton, Lukima, Storey, and Humphrey and that these claims be dismissed with prejudice; and (2) denied in part as to the Eighth Amendment excessive force claims against defendants Burns and Carter and the First Amendment retaliation claim against defendant Carter. (Doc. 55). Although the court advised the parties of their right to file specific written objections within

fourteen days and granted the plaintiff additional time to file objections, no party has filed any objections.¹

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the magistrate judge's report ADOPTS the magistrate judge's report and ACCEPTS her recommendation. Accordingly, the court **ORDERS** that the defendants' motions for summary judgment be **GRANTED IN PART** and **DENIED IN PART**.

Specifically, the motions are **DENIED** as to (1) the Eighth Amendment excessive force claims against defendants Burns and Carter; and (2) the First Amendment retaliation claim against defendant Carter.

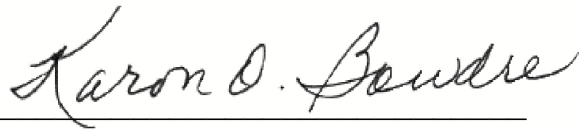
Regarding all other claims asserted by the plaintiff, the court finds that no genuine issues of material fact exist and the defendants are entitled to summary judgment as a matter of law. Therefore, the court **GRANTS** the motions in all other respects and **ENTERS SUMMARY JUDGMENT** in favor of the defendants and against the plaintiff on all other claims asserted by the plaintiff.

¹ The court notes that the plaintiff filed a notice of request for a replacement copy of the Report and Recommendation on April 20, 2017. (Doc. 58). However, the court mailed him a copy of the Report and Recommendation on February 13, 2017, and the plaintiff failed to file any objections within the time ordered.

The court DISMISSES defendants Fishback, Burke, McQueen, Hamilton, Lukima, Storey, and Humphrey as party-defendants in this action.

The court **REFERS** this matter to the magistrate judge for further proceedings against the remaining defendants Burns and Carter on the remaining claims.

DONE and ORDERED this 25th day of April, 2017.

A handwritten signature in cursive script, reading "Karon O. Bowdre". The signature is written in dark ink and is positioned above a horizontal line.

KARON OWEN BOWDRE
CHIEF UNITED STATES DISTRICT JUDGE